

Executive Summary

Task Force to Combat Driving Under the Influence of Drugs and Alcohol

October 2008

In 2007, the Maryland General Assembly passed Senate Bill 198 / House Bill 758 (Chapters 533 and 534, Acts 2007) to create a *Task Force to Combat Driving Under the Influence of Drugs and Alcohol*. The creation of the Task Force was signed into law on May 17, 2007 by Governor Martin O'Malley. The bill took effect July 2007 and expires December 2008. The bill established a task force to assess the status and progress of statewide efforts to combat impaired driving, identify deficiencies and propose solutions.

The task force membership, including the chairperson and lead staff position, consisted of 21 persons representing a diverse group of public and private agencies and associations which were specifically designated in the legislation. The task force membership included representatives from the judiciary, law enforcement, hospitality and beverage business community, as well as the insurance industry, among others.

The task force held twelve meetings, nine of which were convened in subcommittee. The task force worked a great deal in subcommittees to ensure an effective review of the impaired driving system and concerns. The subcommittees addressed the issues under the following topic areas/subcommittees:

- Raising Public Awareness About and Involvement in Reducing Impaired Driving,
- Increasing the Effectiveness of Apprehending and Adjudicating Offenders,
- Intervention and Treatment Intervention and Treatment.

Each committee entertained presentations from practitioners and experts in their respective fields. The committees then prioritized the facts, findings, and research and drafted preliminary recommendations, including proposed solutions presented by field experts. The full task force reviewed the findings from each subcommittee and proposed strategies and recommendations. A final prioritization of the issues and proposed recommendations lead to 42 recommendations, divided into the following seven categories

- Special Multi-Agency Initiative (1 recommendation)
- Maryland Department of Transportation Initiatives (14 recommendations)
- Law Enforcement Initiatives (7 recommendations)
- Intervention and Treatment Initiatives (6 recommendations)
- Court Initiatives (5 recommendations)
- Education Initiatives (2 recommendations)
- Legislative Initiatives (7 recommendations)

RECOMMENDATION OVERVIEW

I. Special Multi-Agency Initiative

1. Establish the Maryland Alcohol Safety Action Program (MASAP). Track all court-related DUI/D cases through the MASAP program, ensuring consistency of information for courts, treatment programs, law enforcement, the MVA, defense counsel, and the ability to determine success or failure of enforcement and treatment modalities for each defendant.

II. Maryland Department of Transportation Initiatives

1. Develop a comprehensive DUI/D Tracking System that facilitates data access from arrest through final disposition.
2. Create a special committee that meets regularly to discuss and evaluate the impact of the recommendations of this Task Force and related issues. Specifically study the issue of Maryland's high refusal rate (28 to 30 percent), and recommend strategies for lowering the rate. This committee also would continue to make other relevant recommendations as appropriate.
3. Request the MVA Administrator to evaluate the interlock vendor requirements found in COMAR and to enforce the COMAR rules to ensure vendors are providing up-to-date information on interlock violations and equipment failures (rates); and provide to the public a means of contacting the MVA with complaints of vendor and device malfunctions.
4. The Medical Advisory Board (MAB) and the Alcohol and Drug Abuse Administration (ADAA) should include as a priority identifying morning interlock violations, and refer morning violators to the Medical Advisory Board for assessment and disposition with an emphasis on treatment strategies.
5. Increased use of ignition interlocks for first-time offenders should be encouraged and supported. Provide educational materials and workshops to the MAB, OAH and the judiciary about the benefits of ignition interlocks for first-time offenders to increase the use of ignition interlocks.
6. Students and parents should be required to participate in a statewide required number of curriculum hours related to the effects and consequences of alcohol and drug use on driving as a prerequisite for obtaining a Learner's Permit. Related educational materials should be developed and/or revised, and distributed to parents regarding the dangers of underage drinking, drunk and drugged driving and parental rights and responsibilities regarding licensing.
7. Develop a Liquor Control Board Task Force to include representatives from every county and local Departments of Liquor Control, as well as representatives from the County Drug and Alcohol Abuse Councils. This Task Force would develop and distribute information packets to county liquor control boards to help inform them on best practices.
8. The Motor Vehicle Administration should ensure that the alcohol and drugged driving curriculum is included as a mandatory presentation in the next planned evaluation/revision of the Driver's Education curriculum to ensure it is up to date with the most current information and best practices.
9. Identify and implement effective countermeasures to address underage drinking. Partner agencies should develop and implement a media campaign that targets youth, drivers under the age of 21, and young adults to inform them of the dangers and consequences of underage drinking, including impaired driving. Colleges and universities should be partners in this effort to help determine the best course of action to address underage drinking.
10. Evaluate the extent of the drugged driving problem and existing trends among targeted drivers, aged 16 to 25 years in Maryland and develop recommendations as appropriate. As part of this recommendation, develop a formal study under the direction of the Department of Mental Health and Hygiene, in coordination with the National Institute of Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism that uses data and information on the extent of the drugged driving problem and existing trends. The study would develop recommendations as appropriate.
11. Implement a Drunk Buster's program by placing signs on the state highway system permitting cell phone callers to dial a unique number to report suspected impaired drivers. Implement an associated media campaign about the program.
12. Designate the Impaired Driving Coalition (IDC) to have a lead role in coordinating outreach messages to improve consistency and effectiveness.
13. Establish a committee that includes representatives from the States Attorneys Association, Attorney General, Office of Administrative Hearings, Private Defense Bar, Public Defender, Maryland State Police, and MVA to address the issue of simplifying the present DR15 form for Advisement of Rights, and if necessary, propose legislation.
14. Establish a committee to research the issue of DUI/D in the illegal immigrant community and propose recommendations.

III. Law Enforcement Initiatives

1. Increase high-visibility impaired-driving enforcement operations to include sobriety checkpoints, saturation patrols, and nighttime seat belt checkpoints.
2. Establish streamlined DUI/D arrest procedures using information technology solutions to reduce data entry and report writing time.
3. Create a CD or electronic file reading the revised DR15 form for advisement of rights in different languages.
4. Mandate a set number of training hours for entry-level officers and continuing education units for law enforcement personnel on DUI/D arrest procedures to retain their certification.
5. Establish a mobile alcohol testing program that can be used for evidentiary purposes.
6. Record the reported place of last drink on the statewide arrest form, analyze the data and distribute this information to local Liquor Control Boards and Parole and Probation.
7. The Motor Vehicle Administration should create a data system that permits law enforcement personnel to query and download lists of suspended and revoked driving licenses as a result of a DUI/D for their localities.

IV. Intervention and Treatment Initiatives

1. Establish consistent and effective risk assessment tools and procedures across the State to facilitate the provision of treatment for those offenders who have substance abuse problems and/or risk to recidivate. As part of this process, establish a list of approved treatment providers in every jurisdiction that must be used to meet MVA, OAH and court requirements. Track all court-related DUI/D cases through the MASAP program, ensuring consistency of information for courts, treatment programs, law enforcement, the MVA, defense counsel, and the ability to determine success or failure of enforcement and treatment modalities for each defendant.
2. Primary and emergency care personnel should be trained and encouraged to use brief interventions with patients arrested for impaired driving.
3. Request MedChi, in coordination with NHTSA, to explore the need for establishment of a Current Procedural Terminology (CPT) Code unique to Brief Intervention.
4. Update and distribute a catalog of effective treatment options, and how they may be accessed, for use by the courts and physicians – to be used in connection with the MASAP program.
5. Convene representatives from the Maryland Insurance Administration (MIA), Maryland Health Care Commission (MHCC), health plan providers, and health insurers to identify and discuss issues regarding accessing health insurance benefits for screening, assessment, and treatment by DUI/D offenders. Develop appropriate recommendations to address those issues as needed.
6. Establish best practices that urge physicians and pharmacists to provide better notification to patients, and ensure that the patient understands the effects of prescription and over the counter drugs on driving ability.

V. Court Initiatives

1. Provide education and informational materials to judges, prosecutors, and defense attorneys on DUI/D impacts, the implications of their decisions and best practices regarding sentencing and sanctions. Provide increased education on drugged driving to prosecutors, judges and Probation and Parole personnel.
2. Provide informational materials to judges, prosecutors and defense attorneys regarding the training standards, qualifications and effective use of Drug Recognition Expert's (DRE) for impaired driving cases.
3. Encourage an increase in the number of DUI/D courts for high BAC and repeat offenders, providing necessary resources for the judiciary, the States Attorney's Office, the Office of the Public Defender, Drinking Driving Monitor Program, and the MASAP (when implemented).
4. Establish a special committee to review all procedures regarding matters involving **blood** tests on DUI/D cases to facilitate and develop a more streamlined approach to the introduction of evidence. This special committee will consist of representatives from the Rules Committee; Committee on Evidentiary Matters; State's Attorney's Association; Defense Attorney's Association; Medical personnel; Courts; and Law Enforcement.
5. Review court procedures regarding who is required to testify on evidentiary matters involving **breath** tests on DUI/D cases to reduce the burden on medical or lab personnel.

VI. Education Initiatives

1. Develop effective, research-based model curriculums for elementary, middle and high school teachers, in collaboration with content experts, to use in health education classes to inform youth of the dangers of alcohol and other drug use and the impact on driving.
2. Encourage local boards of education to require high school students, along with their parents or legal guardians, to attend a class on alcohol and drug impaired driving, in order to obtain a pass to park on school grounds.

VII. Legislative Initiatives

1. Pass legislation to discourage and punish underage drinking by:
 - a. Creating an automatic six-month suspension of the driver's license (with the exception of work, school, medical treatment and healthcare trips) for individuals between 16 and 20 years old who are adjudicated and found to be involved in illegal possession of alcohol. Underage individuals guilty of illegal alcohol possession who have not yet received a license should receive a six-month waiting period upon application for a license.
 - b. Creating a "No Consumption Law" for underage drivers that results in automatic suspension of the driver's license for six months (with the exception of work, school, medical treatment and healthcare trips) for individuals between 16 and 20 years old, and establish an equivalent civil offense.
 - c. Establishing a criminal offense for any adult to illegally obtain or provide alcohol for anyone under the age of 21.
2. A conviction for violation of an alcohol restriction on a driver's license should be made an incarcerable offense with a recommended sentence of 60 days and a \$500 fine.
3. Increase the amount of time before a person is eligible for another Probation Before Judgment (PBJ) from five years to 10 years.
4. Make all "B" Offenses (Driving while Impaired – 0.06, 0.07 or test refusal) at MVA count toward meeting the repeat offender statute at MVA.
5. Require law enforcement officers to request alcohol and/or drug testing of all drivers involved in life-threatening or fatal crashes. Data will be used exclusively for research purposes. *[Note: a change to this recommendation is currently being considered by the Task Force.]*
6. All Motor Vehicle Administration (MVA) or court-mandated interlock users should be required to achieve a minimum of six consecutive violation-free months for a maximum of three years or termination of probation, whichever comes first. Repeat offenders and high BAC-level offenders (0.15 percent or greater) should be required to have violation-free use for 12 consecutive months. Mandated ignition-interlock time periods should be automatically extended until violation-free standards are achieved. Offenders should be provided the right to challenge the failure finding, if they suspect a mechanical failure, through the MVA or Court.
7. Recodify all DUI/D-related traffic laws to eliminate duplications and enable easier research into the laws and remedies related to such offenses.

The Task Force strived to reach consensus to the greatest extent possible and the vast majority of the recommendations are supported by all members. Recommendations with dissenting views have been noted. Each recommendation contains information on:

- Purpose and rationale;
- Implementation responsibility, which refers to the agency(s) tasked with helping implement and monitor progress of the recommendation;
- Note of dissenting views, when present;
- Research support and references or evidence of a practice implemented successfully elsewhere; and
- Details outlining the task force intent and guidance on implementation.

The Special Multi-Agency Initiative is a signature recommendation that would build a comprehensive program to help address the needs of a first time or repeat offender, increase their accountability, improve the services provided to impaired drivers and help reduce recidivism. The Special Multi-Agency Initiative is titled Maryland Alcohol Safety Action Program (MASAP), and is modeled after the successful program operating in Virginia since 1972. For a detailed review of this and the other 41 recommendations, refer to the Final Report to Governor Martin O'Malley and the Maryland General Assembly, October 2008.